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RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 2nd August, 1974:—

I

BILL No. XVIII OF 1974

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1974.

Substitution of new article for article 163.

2. For article 163 of the Constitution. the following article shall be substituted, namely:—

Council of Ministers to aid and advise Governor.

"163. (*1*) There shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions and the Governor shall act in accordance with the advice of the Council of Ministers on all matters except in case of sending a report to the President under article 356 and in case of assent to Bills passed by the Legislature of the State under article 200.

(2) The question whether any, and if so what, advice was tendered by Ministers to the Governor shall not be inquired into in any court.".

STATEMENT OF OBJECTS AND REASONS

The Constitution of India has introduced the Parliamentary system of Government both in Centre and in the States. In a parliamentary form of Government, the Head of the State is required to function in accordance with the advice of his Council of Ministers. Accordingly, the Governor of a State should act according to the advice of his Council of Ministers. But recently a doubt has arisen about the discretionary powers of the Governor. The word 'discretion' in article 163 and the interpretation of certain other provisions of the Constitution have created confusion about the nature of the real powers of the Governor with the result that some Governors in certain cases have assumed powers which were not intended by the word and spirit of the Constitution. So in order to develop healthy parliamentary practice in a State and to run the Government according to the will of the people, no discretionary power should be left to the 'appointed' Governor except in most urgent matters. The amendments suggested in this Bill limit the discretionary powers of the Governor in two cases only and make it imperative for the Governor to act in all other matters according to the advice of his Council of Ministers.

NRIPATI RANJAN CHAUDHURY.

II

BILL No. XX OF 1974

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1974. Short title.

2. In article 75 of the Constitution, for clause (5), the following clause shall be substituted, namely:— Amendment of article 75.

"(5) A person who is not a member of either House of Parliament may be appointed a Minister, but such a person shall cease to be a Minister if he is not elected or nominated to either House of Parliament within a period of six consecutive months from the date he enters upon his office:

Provided that a Minister who is a member of Parliament shall cease to be a Minister from the date he ceases to be a member of either House of Parliament.".

Amendment of artile 164.

3. In article 164 of the Constitution, for clause (4), the following clause shall be substituted, namely:—

"(4) A person who is not a member of the Legislature of a State may be appointed a Minister, but such a person shall cease to be a Minister if he is not elected or nominated to the Legislature within a period of six consecutive months from the date he enters upon his office:

Provided that a Minister who is a member of the Legislature of a State shall cease to be a Minister from the date he ceases to be a member of the Legislature."

STATEMENT OF OBJECTS AND REASONS

There is a confusion as to whether a Minister can remain in office for six months if he ceases to be a member of the Legislature during his tenure as a Minister. It is not quite clear in the Constitution from what date the period of six months will be counted in the case of such a Minister. Besides, it creates unhealthy Parliamentary traditions if a Minister who is a sitting Member of the Legislature is allowed to enjoy the privilege of continuing as a Minister even after cessation of his membership in the Legislature under article 75(5) or 164(4) of the Constitution. Therefore, the Constitution should speak in unequivocal terms that this benefit of six months under article 75(5) or 116(4) of the Constitution will be extended only to a fresher in the Council of Ministers and not to an existing Minister.

Hence this Bill.

NRIPATI RANJAN CHOUDHURY.

III

BILL No. XV OF 1974.

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1974.

Amendment of article 74.

2. In clause (*1*) of article 74 of the Constitution, after the words "Council of Ministers", the words and figures "consisting of not more than 45 Ministers" shall be inserted.

Amendment of article 163.

3. In clause (*1*) of article 163 of the Constitution, after the words "Council of Ministers", the words and figures "consisting of not more than 30 Ministers" shall be inserted.

STATEMENT OF OBJECTS AND REASONS

In the Parliamentary form of Government which has been functioning in India, the Council of Ministers is responsible for the administration of the country. There is, however, no provision in our Constitution regulating the size of the Council of Ministers. The matter is left to the discretion of the Prime Minister or the Chief Minister, as the case may be. This lacuna in the Constitution has been exploited by appointing any number of Ministers and introducing undesirable elements in the Administration. Floor crossing and defection are encouraged by appointing the defectors as Ministers. This unhealthy and undesirable trend in our political system should be checked. The Administrative Reforms Commission has also admitted that certain norms should be followed in fixing the number of Ministers both at the Centre and in the States.

This Bill aims to fix the number of Ministers both at the Centre and in the States.

NRIPATI RANJAN CHOUDHURY.

IV

BILL No. XXII OF 1974

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Constitution (Amendment) Act, 1974.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of article 316.

2. In article 316 of the Constitution, after clause (1A), the following clause shall be inserted, namely:—

"(1B) A person shall not be qualified for appointment as the Chairman or a Member of a Public Service Commission unless he is a citizen of India, and—

(*a*) is not less than forty years of age; and

(*b*) has special knowledge or practical experience in respect of such matters as the following, namely: —

Literature, science, law, defence, art and social service."

STATEMENT OF OBJECTS AND REASONS

PART XIV of the Constitution deals with services under the Union and the States. It provides for the appointment of the Chairman and members to the Union and the States Public Service Commissions. The framers of the Constitution envisaged that the Chairman and members of the Union and the States Public Service Commissions would be highly qualified persons. The Constitution at present does not lay down any qualifications for such members. The absence of such a provision in practical working sometimes leads to appointment of persons who are not of the requisite standard. It is with this object in view that the Bill seeks to insert guidelines concerning the qualifications for appointment of such members. These guidelines would be helpful in selecting suitable persons as Chairman and members of the Union and States Public Service Commissions.

Hence the Bill.

OM PRAKASH TYAGI.

B. N. BANERJEE,
Secretary-General.

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